

Application No. 09/872,081
Reply to Office Action dated January 27, 2006

Amendments to the Drawings:

The attached sheets of drawings include new Figures 18 and 19.

Attachment: New Sheets (2)

REMARKS

Claims 1-28 and 30-44 are currently pending in this application. Claims 25-28, 30-34 and 37 are currently amended. Claim 29 has been canceled. Claims 42-44 are new.

As an initial matter, Applicant submits that the Office Action was improperly made final for several reasons. The Examiner relies upon a reference that is not properly considered prior art to reject claims 33 and 41. In addition, Applicant previously requested an interview and submitted an Applicant Initiated Interview Request form concurrent with filing the Response Amendment on October 26, 2005. The Examiner made the Office Action final without scheduling or conducting an interview with the Applicant, to which Applicant is entitled. Nevertheless, Applicant has filed a Request for Continued Examination. In the event the Examiner finds the Application is not in a condition for allowance after considering this Response, Applicant respectfully requests that the Examiner schedule an interview with the Applicant to discuss the allowability of the claims over the cited references.

Objections to the Drawings

The Examiner objected to the drawings under 37 C.F.R. § 183(a). The Examiner contends that “execute protocol stack instructions to form a data portion of a data packet” (see claims 1, 13 and 25) and “migrate an existing session” (see claims 33 and 41) are not shown in the drawings. Applicant respectfully traverses the Examiner’s objection. Figures 8, 10a, 10b, 10c, 11b, 11c, 11d, 11e, 11f, 11g, 11h, and 11i illustrate examples of “execute protocol stack instructions to form a data portion of a data packet” and Figures 10b, 10c, 13 and 14 illustrate examples of migrating an existing session. See also the corresponding description in the specification as originally filed at pages 16-25, and 29-54, as well as original claims 1 and 13. For example, in one embodiment the system illustrated in Figure 8 receives first information (for example, information in a forwarded packet received through Port B), forms second information (for example, session information), and the protocol stack processor forms a packet that includes the first and second information in the data portion and forwards the packet to a second computing device (for example, to a client system through Port A), and the second information causes the second computing device to perform an operation (for example, maintain a session,

update state information, or selectively perform an application specific operation). See the description of the operation of an embodiment of the protocol stack processor on pages 37 and 38. Nevertheless, Applicant has added new Figures 18 and 19. No new matter has been introduced as underscored by the above-referenced information.

Claim Rejections Under 35 U.S.C. 101

The Examiner rejected Claim 25 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicant respectfully traverses the Examiner's rejection. Nevertheless, Applicant has amended claim 25 as suggested by the Examiner.

Claim Rejections Under 35 U.S.C. 103

The Examiner rejected Claims 1-3, 5-15, 17-32 and 34-40 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,374,300 issued to Masters in view of U.S. Patent No. 6,453,360 issued to Muller et al. Applicant respectfully traverses the Examiner's rejections.

Independent claims 1, 13, 25 and 35, recite, "execute protocol stack instructions to form a data portion of a packet" (or similar language). The Examiner admits that Masters does not teach, suggest or motivate executing protocol stack instructions to form a data portion of a packet. The Examiner contends that this teaching is provided by Muller and that it would be obvious "to have utilized the step of executing the protocol stack instructions to process a packet of Muller in the process of forming a packet in Masters."

In response to Applicant's previous argument that Muller was directed to processing protocol headers, the Examiner points to new portions of Muller, specifically, col. 2, lines 19-33 and col. 15, lines 1-19. The new portions of Muller to which the Examiner points, however, also do not teach, suggest or motivate executing protocol stack instructions to form a data portion of a packet as recited. Muller at col. 2, lines 19-33, refers to adding headers to a data portion that has already been formed. Similarly, col. 15, lines 1-19, refers to control packets and notes that they may not have a data portion. Neither portion teaches, suggests or motivates executing protocol stack instructions to form a data portion.

Further, as previously noted, Muller refers only to processing protocol headers. For example, Muller at column 11, lines 53-54, recites, "in another embodiment the protocol headers may be processed by a processor located on NIC 100." Muller thus refers to processing protocol headers, and not the data portions of a packet. According to Applicant's specification, using the protocol stack to form a data portion of a packet facilitates efficient migration of an existing connection. See, Applicant's Specification at 37-40. In fact, Muller subsequently makes it clear that only the header portions are processed by the protocol stack: "Meanwhile, the header portions of the re-assembled packets may similarly be processed as a group through their appropriate protocol stack." Muller, column 12, lines 23-25. Thus, Muller does not suggest using the protocol stack to process anything other than headers. Accordingly, Applicant respectfully submits that claims 1, 13, 25 and 35, as well as claims 2-3, 5-12 and 42 that depend from claim 1, claims 14-15, 17-24 and 43 that depend from claim 13, claims 26-28, 30-32, 34 and 44 that depend from claim 25, and claims 36-40 that depend from claim 35 are not rendered obvious by Masters, alone or in combination with Muller, because Masters and Muller do not teach, suggest or motivate executing protocol stack instructions to form a data portion of a packet.

The Examiner rejected claims 4 and 16 under 35 U.S.C. § 103(a) as obvious over Masters and Muller in view of admitted prior art. Applicant respectfully traverses the Examiner's rejections. Claim 4 depends from claim 1, and claim 16 depends from claim 13. Thus, claims 4 and 16 are allowable at least by virtue of their dependencies on claims 1 and 13, respectively.

The Examiner rejected claims 33 and 41 under 35 U.S.C. § 103(a) as obvious over Masters in view of Muller and in further view of U.S. Publication No. 2002/0133529 A1 by Schmidt, et al. Applicant respectfully traverses the Examiner's rejections.

The Examiner does not contend that Schmidt teaches, suggests or motivates executing protocol stack instructions to form a data portion of a packet, which as discussed above is not taught, suggested or motivated by Masters, alone or in combination with Muller. Claims 33 and 41 depend from allowable claims 25 and 35, respectively, and are allowable at least by virtue of their dependencies.

In addition, claims 33 and 41 recite, “the second information causes the second computing device to migrate an existing session.” The Examiner does not contend that this is taught, suggested or motivated by Masters and Muller. The Examiner relies on Schmidt. Schmidt is not properly considered prior art for purposes of 35 U.S.C. § 103 because it was filed on January 16, 2001. The present application was filed on June 1, 2001 and claims priority to Provisional Application No. 60/257,456, which was filed on December 21, 2000, before the effective filing date of Schmidt. Accordingly, claims 33 and 41 are allowable for the additional reason that Masters and Muller do not teach, suggest or motivate “the second information causes the second computing device to migrate an existing session,” as recited, and Schmidt (regardless of whether the Examiner has properly interpreted Schmidt) is not prior art.

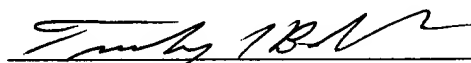
Conclusion

Therefore, for these reasons and others, claims 1-28 and 30-44 are not anticipated or rendered obvious by Masters, alone or in combination with Muller. Further, Schmidt is not properly considered prior art. In the event the Examiner disagrees or finds minor informalities, Applicant respectfully renews its request for a telephone interview to discuss the Examiner’s issues and to expeditiously resolve prosecution of this application. Accompanying this Amendment is a Second Request for Telephone Interview in the event the Examiner does not agree that the claims are allowable over the cited references.

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In closing, Applicant respectfully requests the Examiner to enter these amendments and to reconsider this application and its early allowance. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
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TLB:rr

Enclosures:
2 Sheets of New Drawings (Figures 18 and 19)

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